

**UNITED STATES TRUSTEE
WESTERN DISTRICT OF OKLAHOMA**

GUIDELINES FOR CHAPTER 11 DEBTORS-IN-POSSESSION

These guidelines have been promulgated by the United States Trustee pursuant to his statutory duty to administer bankruptcy cases. Failure to abide by these guidelines will result in the United States Trustee filing appropriate motions with the Court.

Federal Law provides severe criminal penalties for bankruptcy crimes, which include bribery, concealment of assets, false statements, false claims, filing under a fictitious name and perjury. Title 18, United States Code 152, provides penalties of up to 5 years imprisonment or a fine of not more than \$5,000 or both.

**Mary E. May
UNITED STATES TRUSTEE**

**Herbert M. Graves
ASST. UNITED STATES TRUSTEE**

OFFICE OF THE UNITED STATES TRUSTEE
WESTERN DISTRICT OF OKLAHOMA
REPORTING GUIDELINES

1. GENERAL REQUIREMENTS

- A. The debtor is required to comply in all respects with the Bankruptcy Code and the Bankruptcy Rules.
- B. The debtor must pay all obligations arising after the filing of the petition ("post petition") in full when due. This includes not only general business expenses, but all post-petition obligations including but not limited to:
 - 1. wages
 - 2. FICA, both employees' and employers' share
 - 3. Tax withheld from wages
 - 4. All other taxes
 - 5. United States Trustee disbursement fees
- C. The debtor may not pay pre-petition obligations except as allowed by the Bankruptcy Code or by order of the Court.
- D. The debtor shall file all federal, state and local tax returns when due, or shall procure an extension from the appropriate taxing authority, unless otherwise provided by the Bankruptcy Code or by order of the Court. Debtor shall transmit a copy to the United States Trustee of all income tax returns, franchise tax returns (if corporation) or extensions filed during the pendency of the case.
- E. Notices and copies of pleading must be sent to the United States Trustee as required by Bankruptcy Rule 2002(k).

2. BANK ACCOUNTS - USE OF AUTHORIZED DEPOSITORY

- A. The debtor must immediately establish "debtor-in-possession" bank account(s). **The debtor is to close pre petition accounts** and open new accounts in a depository which has agreed to comply with Sec. 345 of the Bankruptcy Code and to comply with reporting requirements of the United States Trustee (per attached Appendix B). All accounts used during the pendency of the case must be established in this manner.

- B. The debtor shall deposit all receipts and make all disbursements through these account(s). Any funds in excess of that required for current operations shall be maintained in an interest-bearing account.
- C. Estate funds must be deposited in a bank which has agreed, or will agree, to provide reports to the United States Trustee. Appendix A is a list of banks that have previously agreed to both provide reports to the United States Trustee and to collateralize debtors funds as may be required. Appendix B is the Chapter 11 authorized depository agreement to be executed and returned to the United States Trustee should the debtor select a bank not listed on Appendix A. If reporting is not consistent with the requirements or if necessary collateral is not pledged, the United States Trustee will request that the bankruptcy estate's funds be moved to a complying institution.

3. INSURANCE REQUIREMENTS

- A. All debtors must maintain insurance as set forth below and make premium payments thereon when due.
- B. Unless the United States Trustee otherwise directs, the following types of insurance must be maintained.
 - 1. Casualty insurance - to cover tangible assets susceptible to casualty loss (fire, theft, vandalism, etc.)
 - 2. Workers' compensation insurance - if the debtor has employees
 - 3. General liability - if the debtor conducts business operations
 - 4. Product liability insurance - if appropriate
- C. Insurance coverage must be verified as set forth in paragraph D4 of the initial report instruction page.

4. INITIAL FILING REQUIREMENTS

- A. The debtor must comply fully with FRBP 1007 and the local rules of the Western District of Oklahoma. These rules requires the debtor to file schedules, a statement of financial affairs and other documents with the Clerk of the Court. Failure to file required documents or pleadings or to obtain an order granting extension of time to file may result in the filing of a motion to dismiss or convert debtor's case.

- B. Pursuant to FRBP 1007(d), the debtor must file with the petition a list containing the name, address, phone number and amount of claim of debtor's twenty largest unsecured creditors. This list should not contain the names of any creditors who are "insiders" as that term is defined in Section 101(31) of the Bankruptcy Code.
- C. The Initial Financial Report and Affidavit, a copy which is attached, must be attached and filed with the Court and a copy transmitted to the UST office within fifteen (15) days of the date of filing. All items must be completed and the information requested furnished to this office. See instruction page for "Initial Report" enclosed for instructions.

5. CREDITORS MEETINGS

- A. Section 341 of the Bankruptcy Code requires a meeting of creditors in each case. A notice of the meeting containing the date and time of the first meeting of creditors is sent to all creditors.
- B. A representative of the debtor as well as debtor's counsel, are required to attend. The debtor's representative must be someone knowledgeable about the debtor's affairs and able to act for the debtor. If a joint petition is filed, both debtors are required to attend.

6. MONTHLY OPERATING REPORTS

- A. Every debtor must file monthly operating reports, under penalty of perjury, with the Court **and transmit a copy to the United States Trustee office** pursuant to FRBP 2015.
- B. The report must be signed by the debtor(s), if an individual(s), by an officer, if the debtor is a corporation or a general partner, if the debtor is a partnership.
- C. The report and attached statements are due for each calendar month period from the date of the filing of the petition (first report will normally be for a short period) until the case is dismissed, converted or a plan is confirmed. The report is due the 15th of the month following the reporting period. (i.e. the June report is due July 15th)
- D. The report must be prepared in accordance with generally accepted accounting principles. The enclosed format is to be utilized in filing monthly operating reports unless prior written approval is obtained from this office.

- E. The quarterly fees report is to be submitted quarterly. All other reports are done monthly.
- F. The standard monthly operating report will consist of the following information: (1) monthly report cover sheet; (2) monthly reporting affidavit; (3) income statement; (4) receipts and disbursements statement; (5) list of disbursements; (6) bank reconciliation(s); (7) copy of bank statement(s); (8) statement of aged accounts receivable; (9) statement of aged post petition accounts payable; and (10) IRS Form 6123 (Verification of Fiduciary's Federal Tax Deposit) or copy of tax deposit receipt when necessary and applicable state reporting form or proof.
- G. See attached monthly operating report format for further details and requirements along with a format to use.

7. COMPENSATION

Compensation and/or other benefits (e.g. use of automobile, insurance, meals, etc.) Paid from the assets of the estate to the debtor; or if a partnership, to any of the partners; or if a corporation, to any officer, director or stockholder thereof, from the time of the filing of the petition until confirmation of a plan, must be reported to the United States Trustee and creditors' committee.

8. CHANGES OR INTERRUPTIONS IN BUSINESS OPERATIONS

Any changes or interruptions in normal business operations must be immediately reported to the United States Trustee and the creditors' committee.

9. QUARTERLY FEES

SEE ATTACHED YELLOW SHEETS FOR FURTHER INFORMATION

10. TAXES

Copies of all tax returns filed post-petition must be provided to the United States Trustee within ten (10) days of filing. The debtor, by the 15th of each month must submit to the Internal Revenue Service Form 6123, Verification of Fiduciary's Federal Tax Deposit, for each previous month. You must send Form 6123 to: Internal Revenue Service, Special Procedures Staff, 55 N. Robinson, Stop 5024, Oklahoma City, Oklahoma 73102 and provide the United States Trustee with a copy. A sample form is enclosed for your convenience.